
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

William Stephen Major

Sacramento, California

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File Number: EB-04-SF-305

NAL/Acct. No. 200532960002

FRN 0013442173

NOTICE OF APPARENT LIABILITY FOR FORFEITURE

Released: June 29, 2005

By the District Director, San Francisco Office, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that William Stephen Major ("Major") apparently willfully and repeatedly violated Section 301 of the Communications Act of 1934 ("Act")¹ by operating an unlicensed radio transmitter on 96.5 MHz in Sacramento, California. We conclude, pursuant to Section 503(b) of the Communications Act of 1934, as amended ("Act"),² that Major is apparently liable for a forfeiture in the amount of amount in ten thousand dollars (\$10,000).

II. BACKGROUND

2. On December 21, 2004, the Commission's San Francisco Office received information concerning an unauthorized broadcast station operating on 96.5 MHz in Sacramento, California. A review of the Commission's databases revealed no authorization for KNOZ to operate on 96.5 MHz in Sacramento, California.³

3. On January 5, 2005, agents from the San Francisco Office while in Sacramento, California observed a station on 96.5 MHz identifying as "KNOZ LP 96.5." The agents used mobile direction finding techniques to locate the broadcast transmissions to commercial office space at 2207 16th Street, Sacramento, California. The office entrance door had signage which read "MAJORSCREEN WORKS THE HOME OF KNOZ 96.5 FM...HTTP://WWW.THE916COM..." The agents took field strength measurements and determined that the signals being broadcast exceeded the limits for operation under Part 15 of the Commissions Rules ("Rules")⁴ and therefore required a license. The agents knocked on the office door and

¹47 U.S.C. § 301.

²47 U.S.C. § 503(b).

³According to Commission records, there is a pending application for a construction permit for a FM translator, filed by Eastern Sierra Broadcasting, for operation on 96.5 MHz in Sacramento, California. See File No. BNPFT-20030317KKK.

⁴Section 15.239 of the Rules provides that non-licensed broadcasting in the 88-108 MHz band is permitted only if the field strength of the transmission does not exceed 250 µV/m at three meters. 47 C.F.R. § 15.239. On January 5, 2005, the measurements indicated that the signal was 1,894 times greater than the maximum permissible level for a
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were granted entry by an individual who subsequently identified himself as William Major. Major offered his business card which indicated he was associated with “KNOZ 96.5 FM (916) Radio.” In response to the agents’ questions regarding the operation of the station, Major assumed responsibility for the station operation. Major could not produce a station license. Major stated that he would take the station off-the-air since he wanted to be in compliance so that he could apply for a Low Power FM station license. Major stated he had completed all associated paperwork and had been in contact with the Commission about the steps necessary to obtain a license. The agents served a Notice of Unauthorized Operation (“Notice”) on Major. Major signed the Notice to acknowledge receipt.

4. On January 12, 2005, an agent from the San Francisco Office again monitored and used mobile direction finding techniques to locate a broadcast transmission on 96.5 MHz emanating from the commercial office space at 2207 16th Street, Sacramento, California. The transmission was identifying as “KNOZ LP 96.5.” The agent made field strength measurements and determined that the signals being broadcast were essentially unchanged from the previous measurement. The measurements indicated that the station still exceeded the limits for operation under Part 15 of the Rules, and, therefore, still required a license.⁵ When agent knocked on the office door, a male voice denied entry and the request for inspection because the owner was not present. The agent then left another Notice at the office door. As the agent departed the area, he heard Major’s voice on 96.5 MHz announcing that the FCC was at the door and was trying to shut the station down.⁶

5. On January 14, 2005, February 3, 2005, and March 15, 2005, agents from the San Francisco Office again monitored and used mobile direction finding techniques to locate broadcast transmissions on 96.5 MHz emanating from the commercial office space at 2207 16th Street, Sacramento, California. During each observation, the transmission was identifying as “KNOZ LP 96.5.” The agents made field strength measurements and determined that the signals being broadcast were essentially unchanged from the previous measurements.⁷ The measurements indicated that the station still exceeded the limits for operation under Part 15 of the Rules, and, therefore, still required a license.

III. DISCUSSION

6. Section 503(b) of the Act provides that any person who willfully or repeatedly fails to comply substantially with the terms and conditions of any license, or willfully or repeatedly fails to comply with any of the provisions of the Act or of any rule, regulation, or order issued by the Commission thereunder, shall be liable for a forfeiture penalty. The term “willful” as used in Section 503(b) has been interpreted to mean simply that the acts or omissions are committed knowingly.⁸ The term “repeated” means

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non-licensed Part 15 transmitter.

⁵The measurements made on January 12, 2005 indicated that the signal was 1,788 times greater than the maximum permissible level for a non-licensed Part 15 transmitter.

⁶On January 13, 2005, the San Francisco Office received a voice mail message from Robert Monterrosa (“Monterrosa”), Esquire, advising that he was representing Major. On January 18, 2005, San Francisco Office agents received letters from Monterrosa which stated he was representing Major, acknowledging that Major was operating on 96.5 MHz. On January 24, 2005, San Francisco Office District Director advised Monterrosa during a telephone conversation that that since Major did not hold a license to operate, there was no exemption for continued operation, and Major must discontinue operation and not resume operation until a license was issued. Monterrosa advised he would confer with his client.

⁷The measurements made on January 14, 2005, indicated that the signal was 1,850 times greater than the maximum permissible level for a non-licensed Part 15 transmitter. The measurements made on February 3, 2005, indicated that the signal was 1,614 times greater than the maximum permissible level and the measurements made on March 15, 2005, indicated that the signal was 1,322 times greater than the maximum permissible level.

⁸Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed
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the commission or omission of such act more than once or for more than one day.⁹

7. Section 301 of the Act requires that no person shall use or operate any apparatus for the transmission of energy or communications or signals by radio within the United States except under and in accordance with the Act and with a license. On January 5, 2005, January 12, 2005, January 14, 2005, February 3, 2005 and March 15, 2005, Major apparently operated radio transmitting equipment at 2207 16th Street, Sacramento, California, on 96.5 MHz without the required Commission authorization. Major received notice on January 5, 2005, that his operation of the station was unauthorized. He acknowledged operation of the station to Commission agents on January 5, 2005. Therefore, his violation is willful. Major's violation occurred on more than one day, therefore, it is repeated. Based on the evidence before us, we find Major apparently willfully and repeatedly violated Section 301 of the Act by operating radio transmission apparatus without a license on 96.5 MHz.

8. Pursuant to *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, ("Forfeiture Policy Statement"), and Section 1.80 of the Rules, the base forfeiture amount for operating without an instrument of authorization is \$10,000.¹⁰ In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act, which include the nature, circumstances, extent, and gravity of the violations, and with respect to the violator, the degree of culpability, and history of prior offenses, ability to pay, and other such matters as justice may require.¹¹ Applying the *Forfeiture Policy Statement*, Section 1.80, and the statutory factors to the instant case, we conclude that Major is apparently liable for a forfeiture of \$10,000.

IV. ORDERING CLAUSES

9. Accordingly, IT IS ORDERED that, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Sections 0.111, 0.311, 0.314, and 1.80 of the Commission's Rules, William Stephen Major is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for violations of Section 301 of the Act.¹²

10. IT IS FURTHER ORDERED that, pursuant to Section 1.80 of the Commission's Rules within thirty days of the release date of this Notice of Apparent Liability for Forfeiture, William Stephen Major SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

11. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal

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under Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act or any rule or regulation of the Commission authorized by this Act...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

⁹Section 312(f)(2) of the Act, 47 U.S.C. § 312(f)(2), which also applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'repeated', when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day."

¹⁰12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999); 47 C.F.R. §1.80.

¹¹47 U.S.C. § 503(b)(2)(D).

¹²47 U.S.C. § 503(b), 47 C.F.R. §§ 0.111, 0.311, 0.314, 1.80.

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Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

12. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Western Region, San Francisco District Office, 5653 Stoneridge Dr., Suite 105, Pleasanton, CA 94588-8543, and must include the NAL/Acct. No. referenced in the caption.

13. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

14. Requests for payment of the full amount of this Notice of Apparent Liability for Forfeiture under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.⁸

15. IT IS FURTHER ORDERED that a copy of this Notice of Apparent Liability for Forfeiture shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to William Stephen Major; and to R. Robert Monterrosa, Esquire; and to Steven C. Sanders, Esquire.

FEDERAL COMMUNICATIONS COMMISSION

Thomas N. Van Stavern
District Director
San Francisco District Office
Western Region
Enforcement Bureau

⁸See 47 C.F.R. § 1.1914.